IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10190 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT HEAVY CHEMICAL LTD.

Versus

MRS. USHA BALKRISHNA

Appearance:

1. Special Civil Application No. 10190 of 2004

M/S TRIVEDI & GUPTA for Petitioner No. 1-2

MR PC MASTER for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 14/12/2004

ORAL JUDGEMENT

Rule. Learned advocate Mr.P.C.Master waives service of rule on behalf of the respondent. At the joint request of the learned advocates appearing for the

parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the legality of the award dated 7.4.2004 passed by the Labour Court, Ahmedabad by which the Labour Court was pleased to allow the reference of the respondent employee and direct reinstatement with 100 per cent backwages.

3. The services of the respondent were terminated by the order dated 12th March 1999. The respondent challenged the said order by filing reference before the Labour Court. The petitioner contended before the Labour Court that the petitioner had lost confidence in the respondent. It was contended, inter alia, that the respondent was found leaking certain confidential information regarding the working of the petitioner Company and on that count her services were required to be terminated.

4. The Labour Court, however, found that the petitioner has failed to produce on record any material in support of this contention. The witness examined on behalf of the petitioner also was not in possession of any details regarding the delinquency of the respondent. In that view of the matter, the Labour Court was unable to accept the contention of the petitioner. In the result, the reference was allowed as mentioned above.

5. Counsel for the petitioner has assailed the award of the Labour Court primarily on the ground that there was loss of confidence and the Labour Court ought not to have interfered with the order of termination. He has submitted that the Labour Court erred in allowing the reference. I find that the Labour Court had come to a definite finding that there was no material on record produced by the petitioner in support of the allegations. The petitioner could not produce any details regarding leaking of confidential information. In that view of the matter, the Labour Court was justified in setting aside the termination of the respondent. I do not find that the Labour Court has committed any illegality in setting aside the order of termination.

6. Consequently, while upholding the award of the Labour Court with respect to reinstatement, considering the overall facts and circumstances and at the concession of the counsel for the respondent, it is provided that the respondent shall be entitled to reinstatement with 80 per cent backwages instead of 100 per cent as provided by

the Labour Court.

7. Subject to the above modification, the award of the Labour Court is upheld. Rule is made absolute to the above limited extent with no order as to costs.

8. Now that the petition is also disposed of, it is expected that the petitioner shall reinstate the respondent as expeditiously as possible and preferably within two weeks from today.

(Akil Kureshi, J.)
(vjn)